

HOUSE BILL 478

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

INTRODUCED BY

Raymundo Lara

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE CLEAN FUEL STANDARD ACT; PROVIDING FOR THE ESTABLISHMENT OF A CLEAN FUEL STANDARD FOR TRANSPORTATION AND DYED FUELS; DIRECTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO PROMULGATE RULES TO IMPLEMENT THE CLEAN FUEL STANDARD ACT; IMPLEMENTING THE ASSESSMENT OF AN ANNUAL REGISTRATION FEE; CREATING THE CLEAN FUEL STANDARD FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Clean Fuel Standard Act."

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Clean Fuel Standard Act:

A. "board" means the environmental improvement

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1 board;

2 B. "carbon intensity" means the quantity of fuel  
3 lifecycle emissions per unit of fuel energy, expressed in grams  
4 of carbon dioxide equivalent per megajoule;

5 C. "clean fuel standard" means a standard  
6 applicable to transportation and dyed fuels that reduces  
7 greenhouse gas emissions, on average, per unit of fuel energy;

8 D. "credit" means a unit of measure assigned to a  
9 person who generates greenhouse gas emission reductions that is  
10 used to comply with the clean fuel standard, such that one  
11 credit is equal to one metric ton of carbon dioxide equivalent;

12 E. "deficit" means a unit of measure assigned to  
13 the provider of a transportation or dyed fuel that has a carbon  
14 intensity greater than the applicable standard, such that one  
15 deficit is equal to one metric ton of carbon dioxide  
16 equivalent;

17 F. "department" means the department of  
18 environment;

19 G. "disproportionately impacted communities" means  
20 disadvantaged communities or communities or populations of  
21 people for which multiple burdens, including environmental and  
22 socioeconomic stressors, inequity, poverty, high unemployment,  
23 pollution or discrimination, may act to persistently and  
24 negatively affect the health, well-being and environment of the  
25 communities or populations;

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1           H. "dyed fuel" means a fuel that has been dyed  
2 pursuant to regulations issued by the United States  
3 environmental protection agency or the federal internal revenue  
4 service and is for non-road use;

5           I. "fuel lifecycle emissions" means the aggregate  
6 quantity of direct and indirect greenhouse gas emissions across  
7 the full fuel lifecycle, including all stages of fuel and  
8 feedstock production and distribution, from extraction or  
9 feedstock generation through the distribution, delivery and use  
10 of the finished fuel by the ultimate consumer, where the mass  
11 values for all greenhouse gases are adjusted to account for  
12 their relative global warming potential;

13           J. "fuel pathway" means a detailed description of  
14 all stages of production and uses for a transportation or dyed  
15 fuel, including feedstock generation or extraction, production,  
16 distribution and combustion and use of the fuel by the consumer  
17 that is used to calculate the fuel lifecycle emissions of a  
18 transportation fuel;

19           K. "greenhouse gas" means carbon dioxide, methane,  
20 nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur  
21 hexafluoride;

22           L. "motor vehicle" means "motor vehicle" and  
23 "special mobile equipment", as those terms are defined in the  
24 Motor Vehicle Code;

25           M. "provider" means a person that produces in New

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1 Mexico or imports into New Mexico transportation or dyed fuel;  
2 and

3 N. "transportation fuel" means electricity or a  
4 liquid or gaseous fuel that is blended, sold, supplied, offered  
5 for sale or used for the propulsion of a motor vehicle, or that  
6 is intended for use in a motor vehicle, in New Mexico and that  
7 meets applicable standards, specifications and testing  
8 requirements for motor vehicle fuel quality.

9 SECTION 3. ~~[NEW MATERIAL]~~ CLEAN FUEL STANDARD--  
10 ESTABLISHED--RULEMAKING.--

11 A. The board shall adopt rules to implement the  
12 Clean Fuel Standard Act.

13 B. The Clean Fuel Standard Act shall apply to  
14 providers.

15 C. In adopting rules, the board shall take into  
16 consideration equivalent programs adopted by other  
17 jurisdictions and may coordinate with other jurisdictions to  
18 promote regional reductions in greenhouse gas emissions.

19 D. No later than twelve months after the effective  
20 date of the Clean Fuel Standard Act, the department shall  
21 petition the board to promulgate rules to implement the Clean  
22 Fuel Standard Act. The rules shall:

23 (1) establish the clean fuel standard based on  
24 a schedule for annually decreasing the carbon intensity of  
25 transportation and dyed fuels used in New Mexico. The schedule  
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1 shall reduce the average amount of greenhouse gas emissions per  
2 unit of fuel energy by a minimum of twenty percent below 2018  
3 levels by 2030 and by a minimum of thirty percent below 2018  
4 levels by 2040;

5 (2) establish a process to determine carbon  
6 intensity values for transportation and dyed fuels that does  
7 not discriminate against fuels on the basis of having  
8 originated in another state or jurisdiction. Nothing in this  
9 paragraph shall be construed to prohibit the inclusion or  
10 assessment of emissions related to fuel production, storage,  
11 transportation or combustion or associated changes in land use  
12 in determining the carbon intensity of a fuel;

13 (3) require the use of nationally or  
14 regionally recognized models or protocols for determining fuel  
15 lifecycle emissions and indirect land use changes in  
16 establishing the carbon intensity value for a transportation or  
17 dyed fuel;

18 (4) establish a process for providers to  
19 comply with the Clean Fuel Standard Act by obtaining and  
20 retiring credits;

21 (5) establish a mechanism for the generation  
22 of credits, which may include projects in the agricultural,  
23 aviation, chemical, carbon sequestration, construction, land  
24 development, dairy, direct air capture, energy, film, forestry,  
25 manufacturing, methane capture and use, mining, oil and gas,

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1 transportation, including transportation infrastructure or  
2 manufacturing, waste management or wastewater treatment  
3 sectors; provided that, with the exception of carbon  
4 sequestration and direct air capture, projects shall reduce  
5 greenhouse gas emissions in the transportation and dyed fuel  
6 supply chain in New Mexico in order to generate credits; and  
7 provided further that, to be eligible for a credit pursuant to  
8 this paragraph, carbon sequestration and direct air capture  
9 projects shall result in additional, quantifiable, verifiable,  
10 permanent and enforceable greenhouse gas emission reductions in  
11 New Mexico;

12 (6) require the annual registration of  
13 providers and any person generating credits;

14 (7) require the assessment of a reasonable  
15 annual registration fee for providers and any person generating  
16 credits that is sufficient to cover the reasonable costs of the  
17 department's administration and enforcement of the Clean Fuel  
18 Standard Act and implementation of rules. Fees collected  
19 pursuant to this paragraph shall be deposited in the clean fuel  
20 standard fund;

21 (8) require providers to demonstrate  
22 compliance with the clean fuel standard by balancing credits  
23 and deficits on an annual basis and submitting fuel pathway  
24 applications, fuel transactions and carbon intensity data to  
25 the department;

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1 (9) establish a fair market for credit  
2 transactions that is administered by the department or a third  
3 party. The board shall adopt rules for market management,  
4 including transaction fees, cost-containment measures or other  
5 mechanisms that enable credits to be traded or to be banked for  
6 future compliance periods and procedures for verifying the  
7 validity of credits and deficits generated under the Clean Fuel  
8 Standard Act;

9 (10) require third-party certifications of  
10 fuel pathway applications and third-party verifications of fuel  
11 transactions and carbon intensity data on an annual basis, at  
12 the expense of the provider or any person generating credits;

13 (11) establish requirements and an  
14 accreditation process for third-party verification, including  
15 acceptance of verification entities that are accredited by  
16 another state that adopts a low-carbon fuel standard and  
17 establishes a third-party verification program;

18 (12) prioritize mechanisms for credit  
19 generation that benefit disproportionately impacted,  
20 environmental justice and rural communities and reduce  
21 cumulative impacts; and

22 (13) require electric utilities that generate  
23 credits from electricity used as transportation or dyed fuel to  
24 use at least fifty percent of the revenues generated from the  
25 credits for transportation electrification or blended biofuel

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1 projects, rebates for electric vehicle purchases or the  
2 provision of direct benefits for current electric vehicle  
3 customers; provided that of the fifty percent, at least thirty  
4 percent in year one, forty percent in year two and fifty  
5 percent in subsequent years shall be used to support  
6 transportation electrification or blended biofuel projects that  
7 primarily benefit disproportionately impacted, environmental  
8 justice or rural communities.

9 E. The department is responsible for the  
10 administration of the clean fuel standard and credits,  
11 including implementation and enforcement of the rules adopted  
12 by the board pursuant to the Clean Fuel Standard Act.

13 SECTION 4. [NEW MATERIAL] CLEAN FUEL STANDARD FUND--  
14 CREATED.--The "clean fuel standard fund" is created as a  
15 nonreverting fund in the state treasury. The fund consists of  
16 appropriations, gifts, grants, donations, income from  
17 investment of the fund and fees collected from the regulation  
18 of transportation and dyed fuels pursuant to the Clean Fuel  
19 Standard Act. Money in the fund is appropriated to the  
20 department and shall be administered by the department for  
21 staffing and resources needed for administration and  
22 enforcement of rules pertaining to transportation and dyed  
23 fuels. Disbursements from the fund shall be by warrant drawn  
24 by the secretary of finance and administration pursuant to  
25 vouchers signed by the secretary of environment or the

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1 secretary's designee. Any unexpended or unencumbered balance  
2 in the clean fuel standard fund remaining at the end of any  
3 fiscal year shall not revert to the general fund.

4 SECTION 5. Section 74-1-8 NMSA 1978 (being Laws 1971,  
5 Chapter 277, Section 11, as amended) is amended to read:

6 "74-1-8. BOARD--DUTIES.--

7 A. The board is responsible for environmental  
8 management and consumer protection. In that respect, the board  
9 shall promulgate rules and standards in the following areas:

10 (1) food protection;

11 (2) water supply, including a capacity  
12 development program to assist water systems in acquiring and  
13 maintaining technical, managerial and financial capacity in  
14 accordance with Section 1420 of the federal Safe Drinking Water  
15 Act of 1974 and rules authorizing imposition of administrative  
16 penalties for enforcement;

17 (3) liquid waste, including exclusive  
18 authority to establish on-site liquid waste system fees that  
19 are no more than the average charged by the contiguous states  
20 to New Mexico for similar permits and services and to implement  
21 and administer an inspection and permitting program for on-site  
22 liquid waste systems;

23 (4) air quality management as provided in the  
24 Air Quality Control Act;

25 (5) radiation control and establishment of

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1 license and registration and other related fees not to exceed  
2 fees charged by the United States nuclear regulatory commission  
3 for similar licenses as provided in the Radiation Protection  
4 Act;

5 (6) noise control;

6 (7) nuisance abatement;

7 (8) vector control;

8 (9) occupational health and safety as provided  
9 in the Occupational Health and Safety Act;

10 (10) sanitation of public swimming pools and  
11 public baths;

12 (11) plumbing, drainage, ventilation and  
13 sanitation of public buildings in the interest of public  
14 health;

15 (12) medical radiation, health and safety  
16 certification and standards for radiologic technologists as  
17 provided in the Medical Imaging and Radiation Therapy Health  
18 and Safety Act;

19 (13) hazardous wastes and underground storage  
20 tanks as provided in the Hazardous Waste Act; ~~and~~

21 (14) solid waste as provided in the Solid  
22 Waste Act; and

23 (15) transportation and dyed fuels as provided  
24 in the Clean Fuel Standard Act.

25 B. Nothing in Subsection A of this section imposes

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1 requirements for the approval of subdivision plats in addition  
2 to those required elsewhere by law. Nothing in Subsection A of  
3 this section preempts the authority of any political  
4 subdivision to approve subdivision plats.

5 C. Administrative penalties collected pursuant to  
6 Paragraph (2) of Subsection A of this section shall be  
7 deposited in the water conservation fund.

8 D. On-site liquid waste system fees shall be  
9 deposited in the environmental health fund.

10 E. Radiation license and registration and other  
11 related fees shall be deposited in the radiation protection  
12 fund."